

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

<b>JOHN GERHOLT,</b>	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>No. 20-cv-4079</b>
	:	
<b>JOHN WETZEL, et al.</b>	:	
<b>Defendants.</b>	:	

**ORDER**

AND NOW, this 31<sup>st</sup> day of August, 2020, upon consideration of Plaintiff John Gerholt's Motion to Proceed *In Forma Pauperis*, ECF No. 1, his Prisoner Trust Fund Account Statement (ECF No. 3), and his *pro se* Complaint, ECF No. 2, it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. John Gerholt, # KR-8142, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of SCI-Phoenix or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Gerholt's inmate account; or (b) the average monthly balance in Gerholt's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Gerholt's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Gerholt's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Warden of SCI-Phoenix.

4. The Complaint is **DEEMED** filed.

5. The Complaint is **DISMISSED IN PART WITH PREJUDICE AND IN PART WITHOUT PREJUDICE** for the reasons stated in the Court's Memorandum as follows:

a. The Eighth Amendment claims, official capacity claims, and grievance claims against all Defendants are **DISMISSED WITH PREJUDICE**.

b. The Eighth Amendment deliberate indifference claim against Defendant Well Path (aka) Correct Care Solutions is **DISMISSED WITHOUT PREJUDICE**.

6. Gerholt may file an amended complaint within thirty (30) days of the date of this Order. Any amended complaint (1) shall not reassert any claim already dismissed with prejudice, (2) must identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, (3) shall state the basis for Gerholt's claims against each defendant, and (4) shall be a complete document that does not rely on the initial Complaint or other papers filed in this case to state a claim. When drafting his amended complaint, Gerholt should be mindful of the Court's reasons for dismissing the claims in his initial Complaint as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall **NOT** make service until so ordered by the Court.

7. The Clerk of Court is **DIRECTED** to send Gerholt a blank copy of the Court's form complaint for a prisoner filing a civil rights action bearing the above civil action number. Gerholt may use this form to file his amended complaint if he chooses to do so.

8. If Gerholt fails to timely amend the complaint, the case will be dismissed without further notice.

**BY THE COURT:**

*/s/ Joseph F. Leeson, Jr.*

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**JOSEPH F. LEESON, JR.**  
**United States District Judge**